

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

May 2, 2002

IN RE:

PETITION FOR APPROVAL OF A CMRS  
INTERCONNECTION AGREEMENT  
NEGOTIATED BY UNITED TELEPHONE-  
SOUTHEAST, INC. AND NPCR, INC. D/B/A  
NEXTEL PARTNERS

DOCKET NO. 02-00191

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ORDER APPROVING COMMERCIAL MOBILE RADIO SERVICES  
INTERCONNECTION AGREEMENT

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The *Petition* requesting approval of a commercial mobile radio services interconnection agreement (the "Agreement") negotiated between United Telephone-Southeast, Inc. and NPCR, Inc. d/b/a Nextel Partners came before the Tennessee Regulatory Authority (the "Authority") at the April 30, 2002 Authority Conference. The Agreement was filed on February 22, 2002 and came before the Authority pursuant to 47 U.S.C. § 252.

Based upon the *Petition*, the record in this matter, and the standards for review set forth in 47 U.S.C. § 252, the Directors unanimously approved the Agreement and made the following findings and conclusions:

- 1) The Authority has jurisdiction over public utilities pursuant to Tenn. Code Ann. § 65-4-104.
- 2) The Agreement is in the public interest as it provides consumers with alternative sources of telecommunications services within the United Telephone-Southeast, Inc. service area.

3) The Agreement is not discriminatory to telecommunications service providers that are not parties thereto.

4) 47 U.S.C. § 252(e)(2)(A) provides that a state commission may reject a negotiated agreement only if it “discriminates against a telecommunications carrier not a party to the agreement” or if the implementation of the agreement “is not consistent with the public interest, convenience or necessity.” Unlike arbitrated agreements, a state commission may not reject a negotiated agreement on the grounds that the agreement fails to meet the requirements of 47 U.S.C. §§ 251 or 252(d).<sup>1</sup> Thus, although the Authority finds that neither ground for rejection of a negotiated agreement exists, this finding should not be construed to mean that the Agreement is consistent with §§ 251 or 252(d) or, for that matter, previous Authority decisions.

5) This is a commercial mobile radio services agreement and is not an agreement between competing carriers.

6) By approving this Agreement, the Authority does not make a determination that the provision of wireless services to both business and residential customers within the BellSouth Telecommunications, Inc. service area rises to the level of facilities-based competition under 47 U.S.C. § 271(c)(1)(A).

7) No person or entity has sought to intervene in this docket.

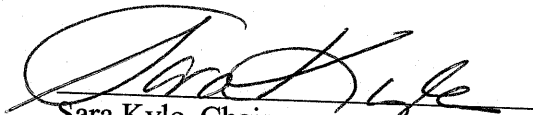
8) The Agreement is reviewable by the Authority pursuant to 47 U.S.C. § 252 and Tenn. Code Ann. § 65-4-104.

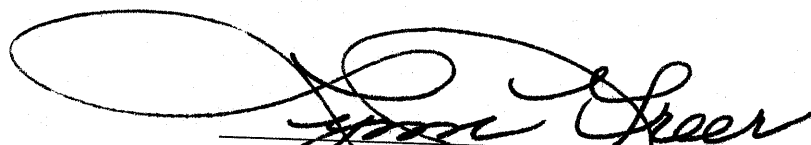
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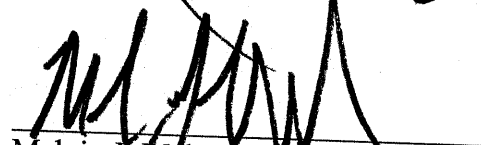
<sup>1</sup> See 47 U.S.C. § 252(e)(2)(B)(Supp. 2001).

**IT IS THEREFORE ORDERED THAT:**

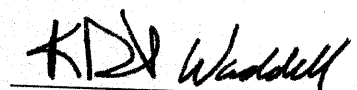
The Commercial Mobile Radio Services Interconnection Agreement negotiated between United Telephone-Southeast, Inc. and NPCR, Inc. d/b/a Nextel Partners is approved and is subject to the review of the Authority as provided herein.

  
Sara Kyle, Chairman

  
H. Lynn Greer, Jr., Director

  
Melvin J. Malone, Director

ATTEST:

  
K. David Waddell, Executive Secretary